

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE HERLEY INDUSTRIES, INC.
SECURITIES LITIGATION

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Civil Action No. 06-CV-2596

**MOTION *IN LIMINE* NO. 1: TO PRECLUDE PLAINTIFF FROM
INTRODUCING EVIDENCE OR ARGUMENT OF HERLEY'S GUILTY
PLEA, OR THE FACTUAL PREDICATE THEREUNDER, AS THE SOLE
BASIS TO ESTABLISH SCIENTER AS TO HERLEY**

Defendants Herley Industries, Inc. ("Herley"), Lee Blatt ("Blatt"), Myron Levy ("Levy"), Anello C. Garefino ("Garefino"), Thomas V. Gilboy ("Gilboy"), and John M. Kelley ("Kelley"), by and through their undersigned counsel, submit this Motion In Limine To Preclude Plaintiff From Introducing Evidence Or Argument Of Herley's Guilty Plea Or The Factual Predicate Thereunder, As The Sole Basis To Establish Scienter As To Herley, or from attempting to impute the scienter of certain previously dismissed Defendants to Herley. For the reasons set forth in the attached Memorandum of Law, which is incorporated by reference, Defendants respectfully request that an Order be entered in the proposed form attached.

April 7, 2010

Respectfully Submitted,

/s/ James T. Smith

James T. Smith, Esquire
Evan H. Lechtman, Esquire
Nakul Krishnakumar, Esquire
BLANK ROME LLP
One Logan Square
Philadelphia, PA 19103
Tel: (215) 569-5643
Fax: (215) 832-5643
Attorneys for Defendants